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July 17, 2023

BY ECF

Honorable Ramon E. Reyes, Jr.
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Acosta, et al. v. City of New York, et al.,
22-CV-00576 (FB) (RER)

Your Honor:

I am a Senior Counsel in the Office of the Honorable Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and the attorney representing defendants City of New York and Police Officers Schmidt, Ramos, O'Connor, Holguin, Lopez, Feliciano, Green and Barias in the above-referenced matter. For the reasons set forth below, and to ensure that the individual defendants' defenses are not jeopardized while representation issues are being decided, it is respectfully requested that the Court extend the time for all defendants to respond to the Complaint, by 14 days, until July 31, 2023. This is the first request of its kind and Plaintiff's counsel, Jessica Massimi, does not consent to this request.¹

¹ Plaintiff's position is as follows: Plaintiffs respectfully request that the Court deny the City's request because defense counsel makes this request on behalf of Defendants he has not even spoken to. As such, his request is improper. Plaintiffs offered to agree to the extension in exchange for the Defendants' agreement that they would not dispute proper service of the summons and complaint for those Defendants the City is currently in communication with. Defense counsel responded that he would not stipulate that service was proper for any Defendant at this time. As such, Plaintiffs do not agree to Defendants' request.

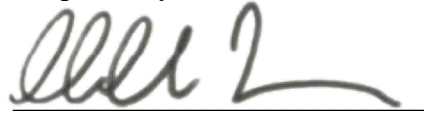
By way of background, on June 14, 2023, in addition to defendants City, Schmidt, Ramos, O'Connor, and Holguin, who were named in the original complaint, Plaintiff amended the complaint to add Police Officers Jason Lopez, Orvin Feliciano, Frank Green, Kristopher Erickson, Joseph Spalding, David Vasquez, Hector Barias, Sylwia Noacki, and Ivan Lugo as defendants. Upon information and belief, on June 26, 2023 Officers Barias, Feliciano, Lopez, Lugo, Noacki, Spalding, and Vasquez were served with process, and on June 27, 2023, Officers Erickson and Green were served with process. To date, this office has resolved representation with Officers Barias, Feliciano, Green and Lopez but has not yet had an opportunity to resolve representation with Officers Erickson, Lugo, Noacki, Spalding, and Vasquez.

The reason for this request is that the undersigned needs additional time to resolved representation with Officers Erickson, Lugo, Noacki, Spalding, and Vasquez. pursuant to the General Municipal Law. *See* General Municipal Law § 50(k); *Mercurio v. City of New York, et al.*, 758 F.2d 862, 864-65 (2d Cir. 1985); *Williams v. City of New York, et al.*, 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (stating that the decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law).

Accordingly, it is respectfully requested that the Court enlarge the time, until July 31, 2023, for defendants Lopez, Feliciano, Green, Erickson, Spalding, Vasquez, Barias, Noacki, and Lugo to respond to the First Amended Complaint.

Thank you for your consideration herein.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Michael Pesin-Virovets', written over a horizontal line.

Michael Pesin-Virovets
Senior Counsel
Special Federal Litigation Division

cc: **By ECF**

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